

**IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION**

ESTATE OF ROGER D. OWENSBY,

Plaintiff

vs.

CITY OF CINCINNATI, et al.

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CASE NO. C-1-01-769

(Judge S. Arthur Spiegel)

**DEFENDANTS CITY OF CINCINNATI AND THOMAS STREICHER, JR.'S
RESPONSE TO PLAINTIFF'S MOTION TO COMPEL RESPONSES TO
PLAINTIFF'S SECOND REQUEST FOR PRODUCTION OF DOCUMENTS (Doc #66)**

Counsel for Defendants entered this case after substantial discovery had taken place. It has taken a considerable amount of time to determine what documents were produced, but more importantly what documents still needed to be produced to assure that Defendants provided all responsive documents pursuant to Plaintiff's request. Accordingly, Defendants focused on areas they believed were of primary importance and supplemented the original responses with hundreds of additional substantive documents. (See attached Exhibit A). Defendants acknowledge that this unfortunately delayed responses to Plaintiff's other numerous discovery requests.

However, Defendants have attempted to comply with the spirit of the rules of this court and will continue to do so to assure that this court is not confronted with unnecessary Motions to Compel, such as this one.

On December 16, 2003, Defendants responded to Plaintiff's Second Request for Production of Documents that is the subject matter of this motion. Defendants had already provided responses to several of the requests. The remaining responses and

additional documents were sent via Federal Express to Plaintiff's counsel on December 16, 2003.

Despite the immense amount of discovery that is still remaining in this case, Plaintiff has refused to agree to an extension of the January 1, 2004 discovery cutoff. This has resulted in numerous discovery requests and depositions. The undersigned counsel has attempted to cooperate whenever possible, despite short notice and often changing dates and times, without the intervention of this court and will continue to do so.

Finally, Defendants believe that any motion for fees in this matter lacks merit. Defendants remain ready, willing and able to work with opposing counsel to resolve any discovery dispute.

Respectfully submitted:

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s/ Neil F. Freund

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PROOF OF SERVICE

This will certify that a copy of the foregoing was served upon counsel of record by electronic mail this 17th day of December, 2003:

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